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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,647	04/23/2007	Knud E. Johansen	606-132-PCT-PA	1743

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EXAMINER

SAVANI, AVINASH A

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

07/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/577,647

Applicant(s)

JOHANSEN, KNUD E.

Examiner

AVINASH SAVANI

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. The following action is in response to the applicant's Amendment dated 3/23/2009, that was in response to the Office action dated 9/18/2008. Claims 1-7 are pending, claims 1, 2, 5 and 6 have been amended, while claims 3, 4 and 6 are presented as previously claimed.

Response to Arguments

2. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiserreiner [842463] and Wright [23610].

5. With respect to claims 1, Kaiserreiner discloses a candle extinguisher comprising a unitary body of a thin-plate material [see FIG 3], said thin-plate material being non-combustible or non-inflammable when exposed to the burning flame of a candle [line 9-10], said body having a ring-shaped part (a) defining an inner space of said candle extinguisher and having an inner diameter at least slightly exceeding the outer diameter of a candle on which the candle extinguisher is to be positioned, said body having a

plurality of flexible finger elements (b) extending upwardly from said ring-shaped part, each of said flexible finger elements comprising a proximal part and a distal part, said proximal parts extending substantially in coplanar relationship with said ring-shaped part and being bendable from said coplanar relation outwardly relative to said inner space defined by said ring-shaped part [line 36-39], , each of said distal parts having a length at least exceeding one half of the width of said inner space defined by said ring-shaped part [see FIG 1]. From the figures, the similarity is seen in the candle extinguishing element, wherein there are projections that are capable of extending perpendicularly from a ring shape from a coplanar edge, wherein the fingers/tongues have a proximal and distal end. Kaiserreiner does not disclose the fingers being an integral with the ring as claimed or each of said distal parts being bent substantially perpendicularly. Wright teaches a similar candle extinguisher wherein the fingers are formed integral with the ring-shaped part forming a single unitary piece and the fingers bent perpendicular relative to a respective proximal part and extending inwardly relative to said inner space defined by said ring-shaped part [see FIG 1]. In view of Wright, the tips of the fingers are perpendicular relative to the ring-shaped portion and the fingers are integral with the same. It would have been obvious to a person of ordinary skill in the art at the time of the invention to form the candle extinguisher as a single piece because the option was known in the art, yielding the predictable result of minimizing manufacturing parts and providing an easy manufacturing process.

6. With respect to claim 2, Kaiserreiner discloses the candle extinguisher according to claim 1, however the examiner is taking official notice that the finger elements are

made from a material similar to carbon steel and that the thickness is approximate to 50-500um. It would have been obvious to a person of ordinary skill in the art at the time of the invention o have a carbon steel material having an approximate thickness of 50-500u because it would be within their skill to know of suitable materials that are non-flammable and would apply this material so as to safely extinguish the candle, via a material with the proper thickness to respond to the heat to deform initiating a bending motion inwardly.

7. With respect to claim 6, it is seen that there are atleast three fingers/tongues that fold inwardly, in order to extinguish the flame.

8. With respect to claim 7, it is believed that the method is also within the scope of Kaiserreiner's extinguisher since the structure is provided; wherein official notice is take as to the method steps of cutting a black and turning the blank into a cylindrical body. It is seen from the figures that there is a cylindrical body since the extinguisher is positioned around the circumference of the candle body. Kaierreiner does not show that the flexible finger elements being integral with the web. Wright teaches a similar device wherein the fingers form a single piece with the ring-shaped portions. It would have been obvious to a person of ordinary skill in the art at the time of the invention to form the candle extinguisher as a single piece because the option was known in the art, yielding the predictable result of minimizing manufacturing parts and providing an easy manufacturing process. It would have been obvious to a person of ordinary skill in the art at the time to cut a blank to form a web from a sheet in order to "shape" the extinguisher to fit around the candle, since forming blanks is a common skill known in

the art to form thin, metal materials, yielding the predictable result of easy manufacturing and low cost.

1. Claims 3-5 rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiserreiner ['463], Wright ['610], further in view of Petersson et al [D241465].
2. With respect to claim 3, Kaiserreiner discloses the candle extinguisher according to claim 1, however does not disclose the proximal part as further claimed.
3. With respect to claim 4, Kaiserreiner discloses the candle extinguisher according to claim 1, however does not disclose the shape of the proximal parts as further claimed.
4. With respect to claim 5, Kaiserreiner discloses the candle extinguisher according to claim 4, however does not disclose the distal end as further claimed.
5. With respect to claims 3-5, Kaiserreiner discloses the candle extinguisher; however it is Petersson et al who teaches the candle extinguisher's design. i.e., the proximal parts having a length at least approximately 2 times the length of said distal parts [see FIG 4], wherein proximal part has a rectangular configuration, the width of the proximal part is one-half the length of the proximal part [see FIG 3], and the distal part being shaped substantially as an isosceles triangle, a base of each triangle being congruent with the distal edge of a respective proximal part [see FIGs 3 and 4]. In view of Petersson et al, there is candle extinguisher with fingers that have a rectangular base and triangular tips. It would have been obvious to a person of ordinary skill in the art at the time of the invention to have a design of fingers with rectangular and triangular portions, because the design was found in the art.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AVINASH SAVANI whose telephone number is (571)270-3762. The examiner can normally be reached on Monday- Friday, alternate Fridays off, 7:30-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Avinash Savani/
Examiner, Art Unit 3749

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749

/A. S./
6/30/2009